

Application No. 10/081,885
Amendment dated February 20, 2002
Response to Office Action of February 12, 2003

REMARKS

Claim 8 has been amended for improved clarity. The present amendment does not constitute the addition of new matter.

The Requirement for Restriction

The Patent Office has required restriction under 35 U.S.C. 121, alleging that the claims as filed embody six separately patentable inventions, as set forth below.

- I. Claims 1-3, drawn to a method of identifying an individual exhibiting symptoms of a muscular dystrophy comprising obtaining a tissue sample from the individual which is known in a normal individual to express $\alpha 7\beta 1$ and determine the level of the translation of the $\alpha 7\beta 1$ integrin using an antibody, classified in Class 435, subclass 7.1.
- II. Claims 1 and 4-6, drawn to a method of identifying an individual exhibiting symptoms of a muscular dystrophy comprising obtaining a tissue sample from the individual which is known in a normal individual to express $\alpha 7\beta 1$ using reverse transcriptase-polymerase chain reaction, classified in Class 435, subclass 6.
- III. Claims 7-12, drawn to a reporter gene construct comprising a transcription regulatory sequence of a human $\alpha 7$ integrin gene and a reporter coding sequence; classified in Class 536, subclasses 23.1.
- IV. Claims 13-14, drawn to a method for identifying a composition which increases expression of an $\alpha 7$ integrin gene comprising contacting a host cell comprising the reporter gene construct with test composition, classified in Class 435, subclass 6.

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- V. Claims 15-16, drawn to a method of alleviating symptoms of a muscular dystrophy which is characterized by levels of $\alpha 7$ integrin comprising administering to a patient suffering from or susceptible to the muscular dystrophy a composition; classified in Class 514, subclass 2.
- VI. Claims 17-23, drawn to a method of alleviating symptoms of a muscular dystrophy which is characterized by levels of $\alpha 7$ integrin, dystrophin and/or utrophin comprising administering to a patient suffering from or susceptible to the muscular dystrophy a DNA construct comprising an $\alpha 7$ integrin; classified in Class 514, subclass 44.

Applicants provisionally elect with traverse the claims of Group I, claims 1-3, drawn to a method of identifying an individual exhibiting systems of a muscular dystrophy using antibody. Applicants respectfully request the rejoinder of the claims of Group II, claims 1 and 4-6, drawn to a method of identifying an individual exhibiting systems of muscular dystrophy using reverse transcriptase polymerase chain reaction. Applicants note that the same type of muscular dystrophy, namely scapuloperoneal muscular dystrophy, is identified by both methods, and the method measures expression of the same gene, $\alpha 7 \beta 1$ integrin, in the two methods. The difference is the particular details of the methods, i.e. the use of antibody or the use of nucleic acid primers in a RT-PCR assay.

Because claim 1 is a linking claim which links the Group I (antibody) and the Group II (PCR) claims and because of the common technical feature of measuring integrin expression, Applicants respectfully request the claims 1-6 be examined. Applicants respectfully submit that a search of both groups would not constitute an undue burden on the Patent Office.

Conclusion

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In view of the foregoing, it is submitted that this case is in condition for allowance, and passage to issuance is respectfully requested.

If there are any outstanding issues related to patentability, the courtesy of a telephone interview is requested, and the Examiner is invited to call to arrange a mutually convenient time.

This response is accompanied by a Petition for Extension of Time (two months) and authorization to charge Deposit Account No. 07-1969 in the amount of \$205.00 (small entity) for the fee required under 37 C.F.R. 1.17. It is believed that no other fees are required. If the amount authorized is incorrect, please deduct the amount due under 37 C.F.R. 1.16-1.17 to Deposit Account No. 07-1969.

Respectfully submitted,



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